

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-0165V

UNPUBLISHED

ANIA OLIVA-GUEDES,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 21, 2023

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Guillain-
Barre Syndrome (GBS)

Anne Carrion Toale, Maglio Christopher & Toale, PA, Sarasota, FL, for Petitioner.

Kimberly Shubert Davey, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On February 19, 2020, Ania Oliva-Guedes filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered from Guillain-Barre Syndrome (“GBS”) as a result of an influenza vaccination she received on April 14, 2017. Petition at ¶1, 12. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 14, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her GBS. On March 21, 2023, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$142,297.87, representing \$130,000.00 in actual pain and suffering, \$35.59 in past unreimbursable expenses, and \$12,262.28 in past lost wages, as well as \$12,131.68 to satisfy a Medicaid lien. Proffer at 2-3. In the Proffer, Respondent represented that Petitioner

¹ Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award the following:**

- **A lump sum payment of \$142,297.87, representing compensation for actual pain and suffering (\$130,000.00), past unreimbursable expenses (\$35.59), and past lost wages (\$12,262.68), in the form of a check payable to Petitioner.**
- **A lump sum payment of \$12,131.68, representing compensation for satisfaction of the State of New York Medicaid lien, in the form of a check payable jointly to Petitioner and:**

**New York State Department of Health
P.O. Box 415874
Boston, MA 02241-5874**

These amounts represent compensation for all damages that would be available under Section 15(a)(.

The Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

On February 19, 2020, Ania Oliva-Guedes (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, as amended (“the Vaccine Act” or “the Act”), 42 U.S.C. §§ 300aa-1 to -34. Petitioner alleges that she suffered Guillain-Barre syndrome (“GBS”), a Table injury, as a result of an influenza vaccine administered to her on April 14, 2017. Petition at 1, 6. On December 4, 2020, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report recommending that compensation be awarded. ECF No. 22. On December 14, 2020, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 25.

Respondent proffers that petitioner should be awarded \$130,000.00 in actual pain and suffering. *See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Past Unreimbursable Expenses

Evidence supplied by petitioner documents that she incurred past unreimbursable expenses related to her vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$35.59. *See* 42 U.S.C. § 300aa-15(a)(1)(B). Petitioner agrees.

C. Lost Wages

Evidence supplied by petitioner documents that she incurred past lost wages related to her vaccine-related injury. Respondent proffers that petitioner should be awarded past lost wages in the amount of \$12,262.28. *See* 42 U.S.C. § 300aa-15(a)(3)(A). Petitioner agrees.

These amounts represent all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

D. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy the State of New York Medicaid lien in the amount of \$12,131.68, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of New York may have against any individual as a result of any Medicaid payments the State of New York has made to or on behalf of petitioner from the date of her eligibility for benefits through the date of judgment in this case as a result of her alleged vaccine-related injury suffered on or about April 14, 2017 under Title XIX of the Social Security Act.

The above amounts represent all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

Respondent recommends that the compensation provided to petitioner should be made through two lump sum payments as described below and requests that the Chief Special Master's decision and the Court's judgment award the following: ¹

- A. A lump sum payment of \$142,297.87, representing compensation for actual pain and suffering (\$130,000.00), past unreimbursable expenses (\$35.59), and past lost wages (\$12,262.28), in the form of a check payable to petitioner, Ania Oliva-Guedes; and
- B. A lump sum payment of \$12,131.68, representing compensation for satisfaction of the State of New York Medicaid lien, in the form of a check payable jointly to petitioner and:

New York State Department of Health
P.O. Box 415874
Boston, MA 02241-5874

Petitioner agrees to endorse the check to New York State Department of Health for satisfaction of the Medicaid lien.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO
Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

ALEXIS B. BABCOCK
Assistant Director
Torts Branch, Civil Division

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future pain and suffering, and future lost wages.

/s/ Kimberly S. Davey
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DATED: March 20, 2023